

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 835 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MUNNASING @ MUNNOR @ ABHESING AJANSING RAJPUT

Versus

COMMISSIONER OF POLICE

Appearance:

MS DR KACHHAVAH for Petitioner

MR SS PATEL AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 18/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 23rd December, 1998, made by the

Commissioner of Police, Ahmedabad City, under the powers conferred upon him under sub-section (1) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'bootlegger' within the meaning of section 2 (b) of the Act, and his activities are found to be prejudicial to the maintenance of public order. An offence punishable under the Bombay Prohibition Act was registered against the petitioner on 17th December, 1998. In the said case, the petitioner was found to be in possession of a large quantity of foreign liquor. Besides, two individuals have given statements in respect of the nefarious activities of the petitioner and its adverse effect on the public tranquility. They have particularly referred to the incidents of 17th November, 1998 and 10th November, 1998. In each of the said incidents, the petitioner is alleged to have beaten the concerned witness in a public place and to have brandish a knife to issue threats and for creating terror and feeling of insecurity amongst the innocent people. Thus, the activities are alleged to have caused public disturbance.

Amongst the other grounds, it is contended that the petitioner has studied in Hindi school upto Std.VIII. He does not know Gujarati language. However, the grounds of detention and certain material supplied to the petitioner were all in Gujarati and the Hindi translation thereof were supplied only after the demand made for the same and that too as late as on 12th February, 1999. The petitioner has, therefore, been not supplied the grounds of detention and the supporting material in the language known to the petitioner for more than a month from the date of his detention. The petitioner is thereby deprived of his right to make an effective representation and the said delay should vitiate the continued detention of the petitioner.

The petition is contested by the learned AGP Mr. Patel. He has submitted that the petitioner is the resident of the city since his birth and he knows Gujarati well. Upon service of the order of detention, he had made an endorsement that he had studied upto Std. VI in Gujarati medium. He has therefore submitted that the grounds of detention and the supporting materials supplied alongwith the order of detention were in the language known to the petitioner. However, since the petitioner had demanded the said documents in Hindi under his representation dated 22nd January, 1999, received by the Detaining Authority on 29th January, 1999, such

translated documents were supplied to him on 3rd February, 1999. It is vehemently argued that the statutory obligation has thus been discharged expeditiously and the order of detention can not be vitiated on this ground.

I am afraid, I can not accept the contention raised by Mr. Patel. In paragraph-12 of the petition, the petitioner has categorically stated that he could only read and write Hindi language. Though the Detaining Authority has answered the averments made in paragraph-12 of the petitioner, he has not denied the above referred statement. The submission made by Mr. Patel is not reflected in the affidavit made by the Detaining Authority. In absence of the specific denial of the averments made in the petition, the submission made by Mr. Patel can not be accepted. It must, therefore, be held that the petitioner was not supplied the grounds of detention and the supporting materials in a language known to him within the statutory period. The continued detention of the petitioner is, therefore, vitiated.

Petition is, therefore, allowed. The order dated 23rd December, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

JOSHI*